

Comments on the Language and the Intent of Proposals 1 – 5.

The general intent of our proposal is to better align actual performance (shipments) with poolings on Order 32. Our goal simply stated is if you desire to pool 100 pounds on the Order you should ship 25 pounds to a distributing plant. This shipment can deliver to the market in whatever manner is most efficient and yields the best return to the supplier. We have no preference as to if it comes directly off the farm or reloaded in a supply plant.

The practice of “pyramiding performance” as a method of attaching milk to the market should be ended. Additionally, nearby milk should not be used to qualify far away supply plant milk that would not be able to readily perform to the market. Proposals 1 – 5 deal with our efforts to better relate Order language to the performance standards needed to serve Federal Order 32.

The specific Order language that supports Proposal 1 amends section 1032.7(c) as follows:

§ 1032.7 Pool Plant

(c) A supply plant from which the quantity of bulk fluid milk products shipped to (and physically unloaded into) plants described in paragraph (c)(1) of this section is not less than 25 percent during the months of August through November and 20 percent in all other months of the Grade A milk received from dairy farmers (except dairy farmers described in § 1032.12(b)) and handlers described in § 1000.9(c), including milk diverted pursuant to § 1032.13, subject to the following conditions:

(1) Qualifying shipments may be made to plants described in paragraphs (a), (b) or (e) of this section.

(2) The operator of a pool plant located in the marketing area may include as qualifying shipments milk delivered directly from producer's farms pursuant to § 1000.9(c) or § 1032.13(c). Handlers may not use shipments pursuant to § 1000.9(c) or § 1032.13(c) to qualify plants located outside the marketing area.

(3) Concentrated milk transferred from the supply plant to a distributing plant for an agreed-upon use other than Class I shall be excluded from the supply plant's shipments in computing the supply plant's shipping percentage.

(4) No plant may qualify as a pool plant due to a reduction in the shipping percentage pursuant to paragraph (g) of this section unless it has been a pool supply plant during each of the immediately preceding 3 months.

Exhibit 10
11/14/2001

We would like to make several comments on our intent regarding this language:

- 1) Our proposals seek to better correlate performance to the market (shipments to distributing plants) with the volume of milk pooled on the market. We have chosen the 20 and 25 percent levels as the performance standard for supply plants. Also we propose that a shipping standard is needed every month and make no provisions for a “free ride”. The current “pyramid ability” afforded by the current standards is too lax and leads to much abuse - as we have documented in our exhibits in every month of the year. The net effect of our proposals should eliminate the “pyramid effect” and thus the actual shipping standard can be reduced to a more realistic level.
- 2) We have selected August through November as the months in which higher standards are needed because we find that our customers need additional milk supplies in August. We moved January to the lower requirement month.
- 3) We have limited qualifying shipments to those pool distributing plants physically in the marketing area as we cannot find any reason to allow qualification for sharing in the Order 32 pool proceeds by shipping to other Order plants. The provisions that allow for qualification to be earned from shipments to other Order plants are generally associated with reserve supply Orders and are written to aid the suppliers from the reserve Order to better make the reserve shipments. We do not consider Order 32 to fit that description and thus would eliminate shipments to other Orders from the definition of what earns qualification. Furthermore the data from Exhibit _____ Table 15 (Market Administrator Exhibit) shows that deliveries to “Other Federal Order Plants” increased markedly in the fall of CY 2000 and noticeably in the fall of CY 2001 at precisely the time that milk was needed in Order 32. Table 16a shows that shipments to Order 7 distributing plants in the fall of CY 2001 were used as the basis for qualifying milk on Order 32 at a time when we were seeking milk to supply Order 32 handlers. Thus milk deliveries shared in the Order 32 blend pool but delivered to distributing plants elsewhere at the exact time it was needed most in this market.

Additionally, some of the “other Order” shipments made in what is now the marketing area of the Central Order, dating back to the “pre- reform” time period were made from what was a predecessor Order to another predecessor Order. With the combination of several of the lower Midwest

Orders into the current Central order all of those shipments are now “in the marketing area”.

- 4) Because direct ship milk is the most economical manner to supply the market, we want to preserve the standards that allow for it to earn qualification for in area milk supplies. However, we cannot find a reason to support the practice that in area shipments can be used to qualify milk that originates far away from the market and rarely if ever performs to the market (and would likely lose money if had to perform in any manner similar to local milk supplies) thus we limit the ability to use in area shipments to qualify out of area supply plants.

The specific Order language that supports Proposal 2 amends section 1032 7(d) as follows:

§ 1032.7 Pool Plant

(d) Removed and reserved.

This section described what was known as the “cooperative supply plant” and was used to abet primarily performance and to some extent touch base. Because of the performance standard and method we have chosen aligns performance with real shipments and because we have not proposed to alter the touch base standard of “once for life” (provided one does not lose association with the market or lose the Grade A permit status) we do not find the need for this provision. Plus English Exhibit 2 shows it unused at the current time.

The specific Order language that supports Proposal 3 amends section 1032 7(f) as follows:

§ 1032.7 Pool plant.

(f)

(1) The applicable percentage requirements for each unit shall be 30 percent for the months of August through November, and 23 percent in all other months.

- 1) Because we feel that supply plant units provide value to the market we think they should remain. They allow for milk supplies to serve the market in a more efficient manner.
- 2) They currently have the geographic requirement that they must be located inside the marketing area in order to receive the benefit from being in a unit. We think the Secretary correctly understood that this benefit should exact a stricter performance standard (in this case geographic) and we support it.
- 3) However, there are some benefits and efficiencies earned by the unit members that they might not otherwise be able to gain. These may include access to the market, a greater return due to reduced cost of transport from shipping near by milk in place of far out milk, greater plant efficiencies in the manufacturing operation of the supply plant due to reduced shipping obligations, the ability of the unit to among its members arrange for a standby reserve supply agreement that may entitle it to extract a premium from the market and perhaps even a reduction in meeting some of the Order paper work requirements.
- 4) In recognition of these gains we propose that a Unit perform at a slightly higher performance standard than that required of a stand-alone plant.
- 5) As the net result of all of our performance standard requests will result in the elimination of "pyramided performance", we think that there may be a renewed interest in supply plant units in the market. Thus our proposal would help the market get additional milk supplies in the most efficient manner.
- 6) This concept was a part of the "pre Reform" Order 30 so it is not a new and unique proposal. There the unit qualification was double the percentage requirement for an individual supply plant in the qualifying months. That is, stand alone plants had to ship 5% while unit performance was 10% and in the remaining months 3% versus 6% for the unit.

The specific Order language that supports Proposal 4 amends section 1032 7(f) as follows:

§ 1032.7 Pool Plant

(g) The applicable shipping percentages of paragraphs (c) and (f) of this section may be increased or decreased, for all or part of the marketing area, by the market administrator if the market administrator finds that such adjustment is necessary to encourage needed shipments or to prevent uneconomic shipments.

This provision authorizes the market administrator to adjust shipping percentages to remove the reference to paragraph (d) by revising the first sentence of paragraph (g). This is a conforming type change only.

The specific Order language that supports Proposal 5 amends section 1032 13(d)(2) as follows:

§ 1032.13 Producer Milk

(2) The quantity of milk diverted to a nonpool plant by a pool plant operator or by a cooperative association pursuant to § 1000.9(c) may not exceed 75 percent of the producer milk receipts reported by the handler pursuant to § 1032.30 for the months of August through November and 80 percent of the remaining months' producer milk receipts reported by the handler pursuant to § 1032.30 *provided* that not less than 25 percent of such receipts in the months of August through November and 20 percent of the remaining months' receipts are delivered to plants described in § 1032.7(a), (b) and (e). These percentages are subject to any adjustments that may be made pursuant to § 1032.13(d)(5);

This provision parallels our proposals in section 7(c).

- 1) In light of proposals that limit "pyramided performance", we propose a relaxed diversion limit.

- 2) The language specifies that shipments must be made each month in order to perform and that deliveries must be made to pool distributing plants or a unit of such plants only in order to earn qualification by the handler.
- 3) The percentages are subject to adjustment by the Market Administrator.
- 4) Our overall goal is again to better correlate shipping standards and pooling performance. Thus if a handler desires to pool 100 pounds in August he must ship 25 pounds to the market.